

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments create a new Medicaid provider type for speech-language pathologists in independent practice. 2012 Iowa Acts, Senate File 2158, as enacted by the Eighty-fourth General Assembly, directs the Department to adopt rules that permit the enrollment in the Medicaid program of speech pathologists in independent practice. Access to speech-language therapy services has been identified as a problem in some areas of the state. Medicare allows for participation of speech-language pathologists practicing independently from a hospital, physician, nursing home or home health agency. Neighboring states allow for enrollment in their Medicaid programs of speech-language pathologists in independent practice.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0203C** on July 11, 2012.

The Department received one comment which stated that the rules as written appear to limit the enrollment to only private-practice speech-language pathologists and are contrary to the intent of the legislation. Wendell Johnson Speech and Hearing Clinic in Iowa City is Medicare-enrolled, but does not appear to meet the criteria in the proposed rule.

The language in 2012 Iowa Acts, Senate File 2158, directs the Department to adopt rules “entitling speech pathologists...including those certified in independent practice, to payment for speech pathology services provided to recipients of medical assistance, subject to the limitations and exclusions the department finds necessary on the basis of federal laws and regulations.” The language in the proposed rule that defined an independent practice as separate from the administrative and professional control of an employer such as a physician, institution or rehabilitation agency is consistent with the language in the Code of Federal Regulations that defines an independent practice and is used by Iowa Medicaid to enroll independently practicing physical therapists and occupational therapists. The Department’s intent was not to exclude enrollment in Medicaid. In order to clarify the rule, the following sentence has been added to rule 441—77.48(249A): “Speech-language pathologists who are enrolled in the Medicare program are also eligible to participate in Medicaid.”

The Council on Human Services adopted these amendments on September 12, 2012.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4 and 2012 Iowa Acts, Senate File 2158.

These amendments will become effective December 1, 2012.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 441—77.48(249A):

441—77.48(249A) Speech-language pathologists. Speech-language pathologists who are enrolled in the Medicare program are eligible to participate in Medicaid. Speech-language pathologists who are not enrolled in the Medicare program are eligible to participate in Medicaid if they are licensed and in independent practice, as an individual or as a group.

77.48(1) Speech-language pathologists in another state are eligible to participate if they are licensed in that state and meet the Medicare criteria for enrollment.

77.48(2) Speech-language pathologists who provide services to Medicaid members who are also Medicare beneficiaries must be enrolled in the Medicare program.

This rule is intended to implement Iowa Code section 249A.4 and 2012 Iowa Acts, Senate File 2158.

ITEM 2. Adopt the following new rule 441—78.54(249A):

441—78.54(249A) Speech-language pathology services. Payment will be approved for the same services provided by a speech-language pathologist that are payable under Title XVIII of the Social Security Act (Medicare).

This rule is intended to implement Iowa Code section 249A.4 and 2012 Iowa Acts, Senate File 2158.

ITEM 3. Amend subrule **79.1(2)** by adopting the following new provider category in alphabetical order:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Speech-language pathologists	Fee schedule	Medicare fee schedule.

[Filed 9/12/12, effective 12/1/12]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/3/12.